

Bay Mills Indian Community Laws and Codes

Updates Received: 2000

BAY MILLS INDIAN COMMUNITY TRIBAL COURT

On order of the Court, pursuant to its authority under sec. 104 of the Tribal Code of the Bay Mills Indian Community, the following Rule of the Bay Mills Indian Community Tribal Court is adopted and promulgated.

Rule 104.1 Foreign Judgments

1.101 Full Faith and Credit.

The judgments of other courts shall be enforced by the Bay Mills Indian Community Tribal Court only when the judgment meets the criteria contained in this Rule:

A. Michigan Court Records and Judgments. The judgments of a Michigan state court shall have the same full faith and credit in the Court of the Bay Mills Indian Community, provided that the person seeking full faith and credit complies with the conditions set forth in Section 1.201, *et seq.* of this Rule.

B. Tribal Court Records and Proceedings. The judgments of another tribal court of a federally recognized tribe shall have the same full faith and credit in the Court of the Bay Mills Indian Community, provided that:

1. The applicable tribal court provides reciprocal full faith and credit to the judgments of the Bay Mills Indian Community; and
2. The person seeking full faith and credit complies with the conditions set forth in Section 1.201, *et seq.*, of this Rule.

C. Federal Court and other State Court Proceedings. The judgments of a United States court or state court other than Michigan may have, in the discretion of this Court, the same full faith and credit in the Court of the Bay Mills Indian Community, provided that:

1. The applicable federal court or state court provides reciprocal full faith and credit to the judgments of the Bay Mills Indian Community; and
2. The person seeking full faith and credit complies with the conditions set forth in Section 1.201, *et seq.*, of this Rule.

This Court, in exercising its discretion, shall be guided by the best interests of the Bay Mills Indian Community and the parties.

D. Court Records and Proceedings of a Foreign Nation. The judgments of a court in a foreign country may have, in the discretion of this Court, the same full faith and credit in the Court of the Bay Mills Indian Community, provided that:

1. The applicable court provides reciprocal full faith and credit to the judgments of the Bay Mills Indian Community; and
2. The person seeking full faith and credit complies with the conditions and procedures set forth in Section 1.201, *et seq.*, of this Rule.

This Court, in exercising its discretion, shall be guided by the best interests of the Bay Mills Indian Community and the parties.

1.201 Application of Full Faith and Credit to Final Judgments; Registration.

A person seeking enforcement of a foreign judgment shall file the following documents:

A. A copy of the foreign judgment which has been authenticated by the clerk or registrar of the foreign court as follows:

1. The clerk or registrar of the foreign court must attest in writing that s/he:

- a. Is the clerk or registrar of the subject foreign court;
- b. Is the custodian of the records of the subject foreign court; and
- c. Has compared an attached copy of the foreign judgment from the case with the original(s) on file and of record in the foreign court, and has found the copy of the foreign judgment to be a true copy of the whole of such original(s).

2. Upon completion of the attestation referenced above, the clerk or registrar of the foreign court must:

- a. Sign and date said attestation;
- b. Affix the seal of the foreign court to said attestation; and
- c. Attach a true copy of the foreign judgment to said attestation.

B. A sworn affidavit by the judgment holder, or the lawyer or lay advocate, which includes the following statements:

1. The name and last known post office address of the judgment plaintiff and the judgment defendant or respondent;

2. That the judgment is final and that no appeal is pending;
3. That no subsequent orders vacating, modifying or reversing the judgment have been entered in the foreign jurisdiction;
4. Proof that the person against whom the foreign Judgment has been rendered is subject to the jurisdiction of the Bay Mills Indian Community Tribal Court with regard to the enforcement of said judgment; and
5. Proof that the court from which the foreign judgment was issued provides reciprocal full faith and credit to the judgments of the Bay Mills Indian Community.

C. A filing fee for registering said foreign judgment in the amount of \$ 30.00.

1.202 Notice of Registration of Foreign Judgment.

Upon the filing of the foreign judgment in compliance with Section 1.201, above, the Clerk of the Bay Mills Indian Community Tribal Court shall promptly mail notice of the filing along with a copy of the foreign judgment and all supporting documents to the judgment defendant or respondent at the address provided by the judgment plaintiff and shall complete a proof of mailing. The notice shall include the following:

- A. The name and post office address of the judgment holder and the holder's attorney or lay advocate, if any, in the enforcement proceeding.
- B. A directive that an order entering the enforcement of the foreign judgment will be entered by the Tribal Court within 21 days of service of the filing on the judgment defendant or respondent, unless there is filed written objections to entry along with a request for a hearing within the 21-day period.

1.203 Service by Judgment Holder.

The judgment holder shall mail a notice of the filing of the foreign judgment, along with a copy of the judgment, attestation and affidavit, to the judgment defendant or respondent and shall file proof of mailing with the Clerk of Court. Service shall be made in conformance with Section 407 of the Tribal Code.

1.204 Proceedings upon Filing of Objection to Enforcement of Foreign Judgment.

When the judgment defendant or respondent files written objection to entry of a judgment by the Tribal Court, with a request for hearing, the Clerk shall send by first-class mail a copy of the objections to the judgment holder or the holder's attorney, if any. The Clerk shall also mail by first-class a notice of hearing, to all parties. At the hearing, the judgment defendant or respondent must present legal or factual reasons why the foreign judgment should not be enforced by the Tribal Court.

Only the reasons specified in Section 1.206 shall constitute sufficient reason for the Court to deny enforcement of the foreign order. Upon conclusion of all evidence and legal argument, the Court shall issue an order either granting or denying enforcement of the foreign judgment, which includes the basis for the decision.

1.205 Entry of Order in Absence of Objection.

In the event that the judgment defendant or respondent does not file written objection within the time period specified in Section 1.203, an order granting enforcement of the foreign judgment shall be issued by the Court upon the 22nd day after the request for enforcement was filed.

1.206 Unenforceable Foreign Judgments.

A foreign judgment is not enforceable or is not recognizable under the following circumstances:

- A.** The judgment was rendered by a court which lacked personal or subject-matter jurisdiction;
- B.** The judgment, decree, order, warrant, subpoena, record, or other judicial act of the foreign court
 - 1.** Was obtained by fraud, duress, or coercion,
 - 2.** Was obtained without fair notice or fair hearing, or
- 3.** Is repugnant to the public policy of the Bay Mills Indian Community.
- C.** The judgment, decree, or order involves enforcement of child custody provisions and the child was physically present on the Reservation of the Bay Mills Indian Community at the time the foreign judgment, decree or order was entered.
- D.** The judgment is the subject of an appeal or stay in the courts of the foreign jurisdiction.

1.301 Judgments Defined.

For purposes of this Rule, "judgments" shall mean judgments, decrees, orders, warrants, subpoenas, records and other judicial acts of a court of competent jurisdiction.

Dated this 24th day of Feb., 1999.

BY THE
COURT:

CORRINE A. CAMERON,
Chief Judge

Enacted 7/19/96

Amended 2/24/99

Bay Mills Indian Community Tribal Court Rule 104.1

CERTIFICATION

I, the undersigned, as Secretary of the Bay Mills Indian Community Executive Council, do hereby certify that the attached Tribal Court Rule 104.1, as amended February 24, 1999, was adopted and approved at a meeting of Bay Mills Executive Council held at Bay Mills, Michigan, on the 22 day of March 1999, with a vote of 3 in favor, 0 opposed, 1 absent, and 1 abstaining. As per the provisions of the Bay Mills Constitution, the President must abstain except in the event of a tie.

Andrew A. LeBlanc, Secretary
Bay Mills Indian Community
Executive Council

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